Report on an

Environmental Land Use Conflict Balmoral, Man.

The Clean Environment Commission

November, 1983

REPORT RESPECTING

ENVIRONMENTAL LAND USE CONFLICTS

BETWEEN

RESIDENTIAL DEVELOPMENT AND LIVESTOCK OPERATIONS

AT

BALMORAL, MANITOBA.

THE CLEAN ENVIRONMENT COMMISSION,
Building 2, 139 Tuxedo Avenue,
Winnipeg, Manitoba.
November 1983.

CONTENTS

Authorization		1
Conduct of Hearing		2
Former Investigations and Reports		11
Observations and Conclusions		13
Recommendations		18
Appendix A	Letter from The Honourable Jay Cowan, Minister of Environment and Workplace Safety and Health of March 30, 1983.	20
Appendix B	Clean Environment Commission Advertisement of public hearing.	21
Appendix C	Manitoba Regulation 34/73 Respecting Livestock Production Operations	22
Appendix D	Recommendations of the Commission's Report on an Investigation of Intensive Livestock Production Operations in Manitoba, February, 1979.	23
	Attachment 1 - Schedule of Separation Distances	28

AUTHORIZATION

In response to a request from the Rural Municipality of Rockwood, the Minister responsible for Environmental Management, Workers Compensation, Workplace Safety and Health, The Honourable Jay Cowan, on March 30, 1983, requested The Clean Environment Commission to investigate possible land use conflicts arising from the location of the Fox brothers' livestock operations in immediate proximity to a residential area of the community of Balmoral, Manitoba.

The Commission was requested to investigate this matter, to hold public hearings pursuant to Section 13(1) of The Clean Environment Act, and to provide him with a report and recommendations. Section 13(1) states as follows:

> 13(1) The commission may, unless otherwise directed by the minister, for the purposes of carrying out its duties and functions under the Act, investigate any matter respecting the environment and for that purpose hold such hearings as it deems advisable.

A copy of the Minister's letter is attached as Appendix A to this report.

CONDUCT OF HEARING

Prior to convening the hearing, the Commission forwarded notices June 20, 1983, to all those persons likely to be affected and published an advertisement in the Winnipeg and Stonewall newspapers July 13, 1983. A copy of the hearing advertisement is attached as Appendix B to this report. The hearing was held in the Memorial Hall at Balmoral, Manitoba, July 26, 1983, and was reconvened at the same location August 15, 1983.

At the commencement of the hearing, the Chairman called witnesses from the Department of Environment and Workplace Safety and Health, the Department of Agriculture and the Department of Natural Resources and accepted a letter from the Department of Health confirming that the cattle feedlot operated by Mr. & Mrs. Stanley Fox and the pig production operation being operated by Mr. & Mrs. John Fox were in compliance with all applicable regulations issued by the Province of Manitoba. Compliance with the Public Health regulations had been confirmed during an examination by a public health inspector in 1979 and an inspection by Dr. W. G. French, Executive Director, Medical Public Health, in 1980, who stated he was "very surprised at the cleanliness and general appearance of this (hog) operation" and that he was "confused by the complaints of the neighbours (with respect to this operation)". He noted, with respect to the livestock feeding operation that the owner had stated he would like to close up the lagoon he was maintaining to receive liquid wastes from the feedlot and instead install waste tanks which could be pumped out, but that he was forbidden by bylaw to do so or to do any repair or maintenance work. He further stated, "I do not feel that in conscience I could order him to stop using the lagoon".

Testimony from Mr. Kenneth Hawkins, Regional Director, Inspection Services of the Environmental Management Division, Department of Environment and Workplace Safety and Health, indicated that the two livestock operations in Balmoral were considered to be in full compliance with the provisions of the Keeping of Animals Regulation P210-R3, Division XIV, as issued pursuant to the Public Health Act. Although this regulation had a provision against the keeping of hogs closer than two hundred yards from the boundary of land owned by any other person, Mr. Hawkins pointed out that this stipulation included the words "Except with the permission of the medical officer of health", and it was the opinion of Mr. Hawkins' department that this permission was implied in the memorandum from Dr. French, which was tabled at the hearing. He also indicated it was the position of his department that the provisions of this regulation could not have been applied retroactively and that the keeping of hogs on the subject farm had been in effect prior to the date the regulation was issued.

The Keeping of Animals Regulation P210-R3, Division XIV, was repealed by the government of Manitoba on August 22, 1983, by Manitoba Regulation 178/83.

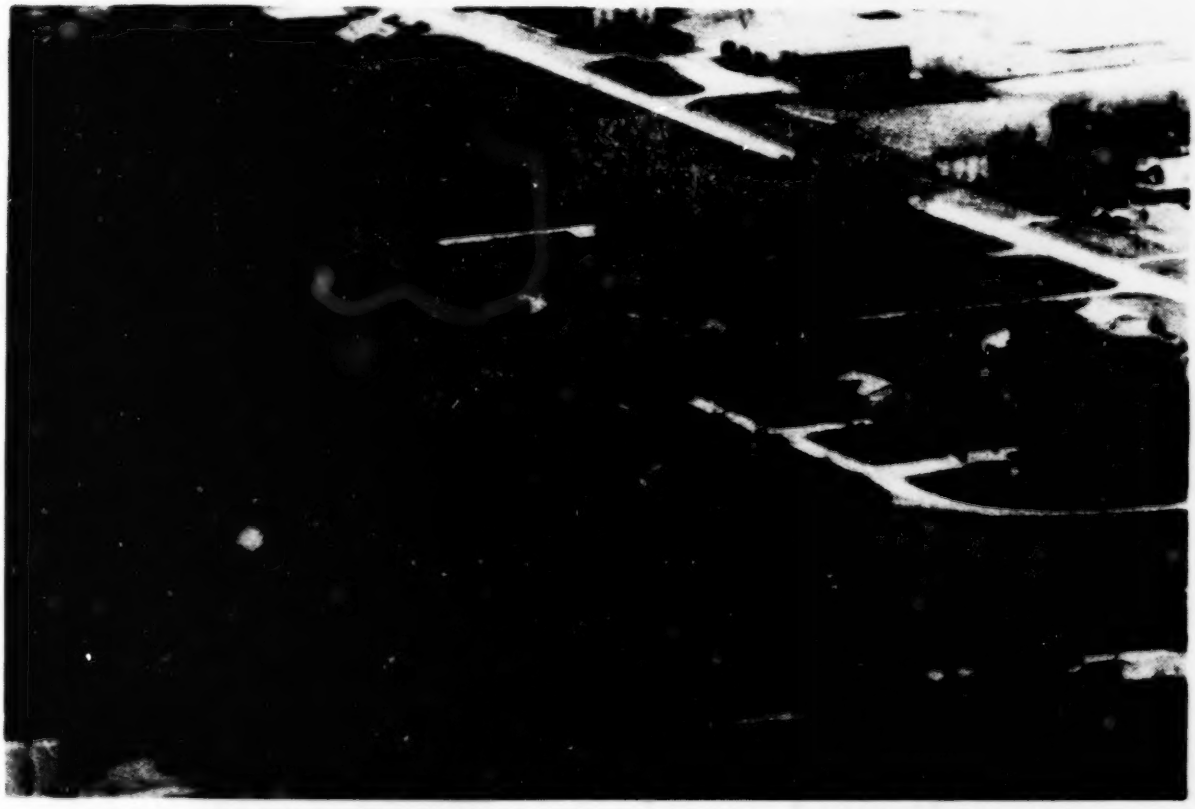
Officers of the Environmental Management Division gave evidence that the existing regulation under The Clean Environment Act respecting livestock production operations (Manitoba Regulation 34/73), while providing some protection against water contamination and control of the disposal of livestock waste and dead animals, does not provide any means of limiting numbers of livestock in consideration of the proximity of livestock operations to residences. Nor does the regulation provide for the limitation of livestock in consideration of the quantity of land available to the livestock operator for the disposal of waste. To the knowledge of officers present, no registration of a livestock operation has ever been refused and no limitation has ever been exercised. The same applies to re-registration on

expansion of existing, registered intensive livestock operations. It was the opinion of these officers that no jurisdiction exists under the regulation for the department to exercise any discretion regarding limitations on the size or location of any livestock operation. The regulation requires only that intensive livestock operations, beyond a stipulated size, be registered. There is no limit on the number of livestock that can be so registered. Subsequent re-registration, for higher livestock numbers by the same registration process - without any apparent limit on numbers being applicable - could result in a progressive and virtually unlimited expansion.

The Commission received testimony, including a number of letters, from the residents of Balmoral. The first of these witnesses was Mr. Alex MacKenzie whose residential property abuts the property of Mr. & Mrs. Stanley Fox. He stated his father had bought the property from the CPR at the time the railway had been put through and the land had been subdivided in 1898. His lot is one of approximately thirteen residential properties located adjacent to the two livestock operations all originating from the subdivision laid out at the time the CPR railway was constructed.

Mr. MacKenzie stated that he had lived next to the farm of Mr. Russell Fox, father of Stan and John, and was very familiar with his farming operations. He noted that there had never been the stench and offensive odours until some time after Stan and John had taken over the farming operations. Prior to that time, approximately 10 to 14 milking cows, 6 horses, 3 sows and 20 yearlings had been kept in the barn which is now part of the feedlot operation. He stated that there were now cattle pens and a lagoon a hundred feet from his property line, also an open silo ten feet from the property line. He testified the smell of liquid being pumped out of the lagoon, several times each year, was unbearable and the smell of the silo was present at all times. In addition, he complained of the noise of machinery and grain augers at all hours of the day and night and dust from

The east end of Balmoral with the Stan and Sharon Fox feedlot in the background, residential development in the middle distance.



A view slightly left of the top photo, the John and Dale Fox hog barns along the farther edge of the settled portion in the middle distance, school top right.

straw chopping machinery near his property line. He also expressed concern about the possibility of groundwater contamination as the village was located in a groundwater pollution sensitive area. He stated that the livestock operations gave rise to large numbers of flies which were a frequent nuisance and marked the finish of his buildings. He voiced his concern about large numbers of straw bales piled three high along his property line as being a possible fire hazard. A further complaint was the fact that manure was hauled from the feedlot through the main street of Balmoral for disposal on Mr. Fox's other agricultural lands. Finally, Mr. Mackenzie complained of an occasion when dead animals were left in field pens for in excess of three days. He expressed concerns for the health and safety of not only himself and his family but of all the citizens in the village of Balmoral.

The complaints voiced by Mr. MacKenzie were essentially the same as those repeated by a number of other residents of properties near to the two livestock operations who complained of their inability to enjoy outdoor activities or to keep their windows open when the wind was blowing from the wrong direction at certain times of the year and about the noise of newly arrived cattle in the feedlot.

The strongest odours were said to originate mainly during and immediately following the operations of the contractor who removed the manure from the cattle feedlot to be transported and spread on Mr. Stan Fox's agricultural lands. There were also strong odours during periods when the feedlot wastewater lagoon was pumped out to adjacent agricultural land several times each year. Odours of less intensity originated from the pig barns, cattle pens and bunk silo.

The Commission received evidence from Dr. Peter Warner, Director, Environmental Health, of the Manitoba Department of Health, who stated that, in his professional opinion, there were

no direct health hazards arising from the two operations. There was no evidence of drinking water contamination and odours and flies from these operations do not represent a public health hazard.

Mr. Maris Rutulis, Inventory Geologist, Department of Natural Resources, testified that there was no evidence of contamination of groundwater in the Balmoral area relating to either the feedlot or the hog operation. He felt that this was the result of protection of the bedrock being provided by a layer of glacial till and clay above the rock. In general, this overlay protects groundwater from pollutants entering from the ground surface.

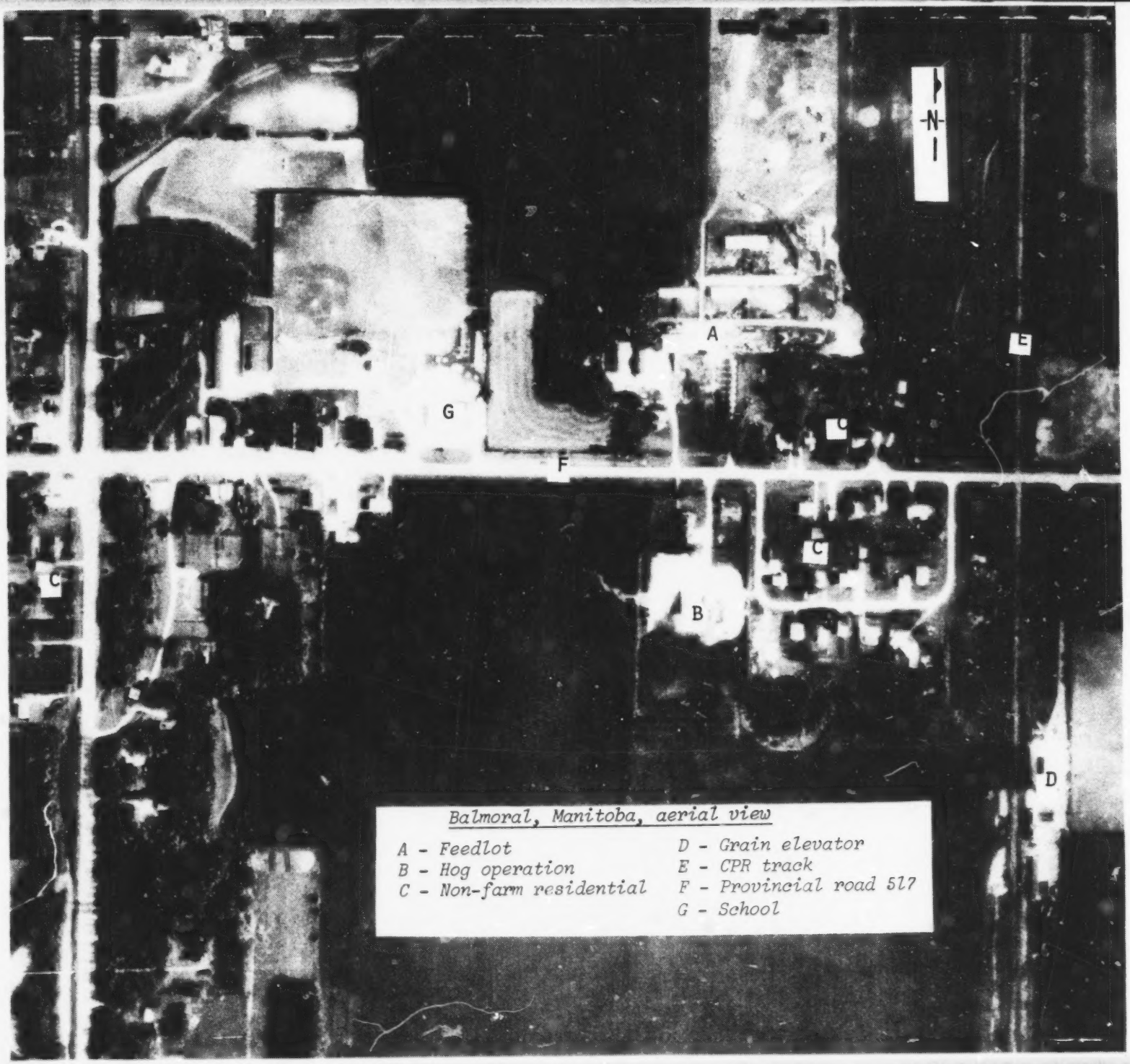
Mr. Stewart Baynton, the Public Health Inspector from Stonewall, reported that his department had conducted a survey in 1983 to ascertain whether there had been any change in the well water at Balmoral as compared with a 1979 survey. He reported that the three wells found to have faecal coliform bacteria present in the water in 1983 were not in the vicinity of the livestock operations. He stated these results were comparable to those found in communities without livestock operations.

In a brief on behalf of the Manitoba Department of Agriculture, Mr. Dennis Hodgkinson stated some 16,000 livestock producers accounted for products valued at $524 million in 1981 or 26% of the total value of agricultural production in Manitoba. This production supported another 5,000 Manitobans employed in related processing industries earning $86 million in wages and producing $150 million of value added returns on processed livestock products. He pointed out that the Balmoral pig operation was carried out in such a manner that sanitation was excellent and very little could be done to improve performance. He also observed that measures could be taken to improve drainage in the cattle pens. However, he noted that odour was the most difficult environmental problem associated

with livestock production and that it was difficult to establish practicable, achievable limits on odour levels on or adjacent to the production unit.

Speaking on behalf of the Rural Municipality of Rockwood, Reeve Rens Renooy stated that Balmoral had been the site of both a residential community and adjacent farming operations for more than 100 years. However, a two fold problem had developed when the two Fox operations were expanded "without adequate concern for the effects on their neighbours" and when the residential occupants had become somewhat intolerant of the neighbouring farm operations. He reported the municipality's litigation against the two producers was hampered when their zoning bylaw was rendered inoperative by actions taken pursuant to the Province's Planning Act. The municipality had been the recipient of complaints from residents concerning the livestock operations and had not been successful in arranging for amelioration of the problem. Mr. Renooy hoped The Clean Environment Commission would review the situation and arrive at just recommendations which would be fair to the producers and residents alike.

David Lethbridge, Chairman of the South Interlake Planning District appeared at the hearing to describe the establishment in 1979 of the district, having jurisdiction for the Rural Municipality of Rockwood, including the Balmoral area. He stated that, prior to that time, the Municipality had provided for land use control by a bylaw which was in force until August, 1982, when it ceased to be effective. For this reason, an interim development control order had been issued in November, 1982, to ensure no development took place which was not in conformity with the proposed plan. Under this order, the land on which the two livestock operations are located was zoned "rural residential". As the zoning land use order was not retroactive, the two operations, as existing land uses at the time the order came into force, were recognized as nonconforming land uses.



Balmoral, Manitoba, aerial view

A - Feedlot
B - Hog operation
C - Non-farm residential
D - Grain elevator
E - CPR track
F - Provincial road 517
G - School

Henceforward, any newly established livestock operations would have to be located outside a one mile buffer zone surrounding unincorporated rural "urban centres" to be in conformance with the development plan. A special development permit, authorized by the district planning board, would be required for any building or expansion of any existing nonconforming uses, such as the two Balmoral livestock operations.

Mr. Serge Scrafield of the Provincial Planning Branch of the Department of Municipal Affairs described the provincial land use policies approved in 1980. These policies advocate the preservation of prime agricultural land for a full range of agricultural activities where there is no adjacent land which is in conflicting use and the preservation of such land for limited agricultural use where conflicting uses exist. The policy encourages restriction of additional rural residential development or other incompatible uses in conflicting proximity to livestock operations and within areas intended for continued agricultural use.

These provincial land use policies are designed to prevent the future development of such a land use conflict as is now present in Balmoral where farm and community residential development have co-existed for over a century, in apparent harmony until the livestock operations expanded.

Stan and Sharon Fox, in their testimony before the Commission, indicated they had acquired the farm from Stan's father in 1972 and that Stan had owned cattle as far back as 1966. Although the following total numbers of cattle were not all present in the pens at any one time, the annual throughput of the operation was 174 cattle in 1970, 355 in 1971, and 700 in 1972. The annual throughput numbers varied from 350 to 900 during the period from 1974 to 1979. In 1979, two additional holding pens were added bringing the operation to its present capacity of 800 to 850 head. The operation also includes the

growing of cereal grain and other crops and the storage and feeding of chopped alfalfa and corn silage to the cattle.

John and Dale Fox, operators of the farrow operation, stated John had bought the farm from his father in 1971 having started a pig operation prior to that date. Following the building and extension of a second barn, this operation had reached its present capacity of 100 sow/weanling operation (up to 450 pigs at one time) in 1979.

Both operators stated that, until 1979, they had enjoyed good relations with their neighbours and had received no complaints; however, it was in that year that Stan was told by the reeve that, because of a zoning bylaw passed some years previously by the Council of the Rural Municipality of Rockwood, he would not be permitted to "pour one wheelbarrow full of cement" for the maintenance or improvement of his operation. He said that, prior to his official notification in 1979 by lawyers acting for the Municipality that his operation should cease because it was not in conformance with a zoning bylaw passed by the Rural Municipality in 1962, he had received no official notification of the existence of such a bylaw. He stated that until that time he was unaware of the existence of the bylaw or its restrictions. He stated he would like to upgrade his pens, to cement more troughs and make cement abutments along where the cattle stand, to put in a new wire fence and to install holding tanks for runoff liquid; however, he would not proceed with such improvements without assurance that he was going to be permitted to continue in the cattle business for a number of years. In answer to suggestions that the livestock facilities could be moved farther back on their properties in order to increase the distance from the residential areas, both operators stated it was necessary to have a residence in close proximity to the livestock operations in order to be nearby to know when the animals required attention and to be able to respond at any time of the day or night.

The position that livestock operators should reside in close proximity to their livestock facilities was supported by other livestock operators present at the hearing, although the necessity of this was disputed by some residents of Balmoral having a farm background.

Mr. John Fox stated that, in order to forestall complaints, he had installed tanks for liquid waste and that he hauled away manure for land distribution on his farm daily except during the winter months. Mr. Stanley Fox stated every effort was made to clean out the manure early in the spring and that the manure was now hauled out via the back of his property instead of going down the village street. He also had installed a concrete silo in order to overcome problems with the previous timber silo and he had spent a considerable amount on a fly control program. He pointed out that there were difficulties with manure hauling because the custom operator, when contracted to carry out cleaning of the pens, did not have sufficient flexibility to time his operations to coincide, for example, with a favourable wind direction. He felt that, if he were sure he would still be feeding cattle ten years hence in the same location, there were a lot of improvements that could be carried out that would result in an operation that would be better for the neighbours and better for the operator. However, Mr. Fox's solicitor noted that there was still litigation pending arising from a suit brought against Mr. Stanley Fox several years previously by the Rural Municipality of Rockwood. This led to a certain amount of uncertainty on the part of both operators and a reluctance to contemplate any substantial improvements at that time. Both operators stated that they were not interested in expanding the size of their operations beyond the size that now exists.

FORMER INVESTIGATIONS AND REPORTS

Prior to 1973, The Clean Environment Commission was the licencing authority for livestock operations in Manitoba. As part of this function, the Commission received and reviewed applications and, where appropriate, held public hearings prior to issuing licences or orders.

Commencing in 1973, Manitoba Regulation 34/73 exempted livestock operations from this process. A copy of this Regulation is attached as Appendix C to this report. However, in 1973, 1975, and again in 1978, the Commission became involved in the investigation of livestock operations.

The 1973 investigation related only to a specific custom feeding operation in the Rural Municipality of Dufferin and a dairy/cow-calf operation in the Rural Municipality of Tache which resulted in a report by the Commission to the Minister then responsible for the environment.

In 1975, at the request of the Environmental Management Division, The Clean Environment Commission held a public hearing in Stony Mountain to investigate complaints about a registered livestock operation near Stony Mountain. The Commission reported to the Minister responsible that all legal requirements had been met and that no environmental problems could be identified.

In 1978, the livestock investigation was on a much more extensive scale involving public hearings in seven regional centres in the agricultural areas of Manitoba resulting in the receipt of 78 briefs and representations from a wide range of producers' organizations, local action committees, businesses, local and provincial governments, and individual citizens. This investigation concluded in the submission, to the Minister responsible, of the "Report on an Investigation of Intensive

Livestock Production Operations in Manitoba" Feburary 26, 1979. The recommendations contained in that report were not acted upon by the government; however, the Commission believes these recommendations should be reexamined and considered for adoption by the responsible authorities. The 1979 recommendations are attached as Appendix D to this report.

OBSERVATIONS AND CONCLUSIONS

The present situation in Balmoral represents a contradiction of the stated "Provincial Land Use Policies" in Manitoba which seek to protect agricultural land use on the one hand and, on the other hand, prevent the development of land use conflicts including incompatible land uses in the vicinity of residential developments.

1. In the past ten years, and more noticably in the past five years, particularly in the area around Winnipeg, livestock operations are being confronted by increasing rural nonfarm population growth.

2. The size and degree of specialization and intensity of many livestock operations has risen in response to the requirements of economic viability and the declining producer population in Manitoba.

3. Intensive livestock production, by its inherent nature, will inevitably produce odours that are objectionable to many rural nonfarm residents and under certain conditions and operations that must be undertaken, as an essential part of the livestock production process, such odours will be intensified.

4. The nonfarm component of rural communities is becoming increasingly intolerant of aspects of livestock operations that impinge on their lifestyle - especially during the summer months when both agricultural odours and outdoor activities reach maximum levels and when residential doors and windows are open for ventilation purposes.

5. Livestock operators, along with other agricultural producers play an essential and basic role in the economic structure of Manitoba.

6. The main effective relief from the unavoidable environmental problems associated with livestock production, aside from careful management, is to maintain adequate separation between such production units and residential, commercial, or recreational land use areas.

7. The Clean Environment Act includes "odour" in its definition of a "contaminant". It further defines a contaminant as an odour that [1(d)(viii)] "interferes or is likely to interfere with the comfort, well-being or enjoyment of a person". There is no doubt that the livestock operations' odours so affect the residents of Balmoral.

The present regulation respecting intensive livestock operations under The Clean Environment Act (34/73) is not effective in dealing with this aspect of environmental control and fails to exercise jurisdiction or allow discretion with regard to size of livestock operations in relation to existing residences or residential developments. Had the regulation included controls in this regard, at least the severity of the current problem in Balmoral might have been ameliorated.

Recommendations concerning these matters were made by The Clean Environment Commission in 1979 in its "Report on an Investigation of Intensive Livestock Production Operations in Manitoba"; however, no revisions of regulation 34/73 have subsequently been made.

8. Both sides in land use conflicts that develop between residential development and livestock production have their rights.

(a) Livestock operators have a right to pursue their lawful business enterprises which represent a considerable monetary investment and often a lifetime commitment of management skills, knowledge and hard work requiring virtually uninterrupted care and attention.

8. (b) Nonfarm residents who have occupied dwellings in good faith, many of which are located in areas zoned for residential use are, in principle, entitled to protection from unreasonable levels of nuisance conditions arising from agricultural or other enterprises.

9. Due to property values and the high levels of assets of existing livestock operations, remedial action by compensating owners to move would require a large financial commitment by the compensating authority.

10. As the local municipality has principal responsibility for any deficiency in its land use planning or bylaw application and will obtain the maximum benefit from the solving of land use conflicts, the local authority might logically be expected to bear a substantial share of the cost of compensation of livestock operations that may be required to relocate.

11. The Clean Environment Act provides Rural Municipalities with a means of dealing with land use conflicts by the utilization of its abatement clauses. This legislation enables municipalities, with the agreement of the provincial government to obtain partial funding from the Province for their proposals to buy out, compensate and relocate those who cause or those who are affected by undesirable environmental conditions associated with livestock or other operations. The land so acquired could be rezoned and sold for uses compatible with local conditions with the proceeds of the sale offsetting some of the costs of the abatement projects.

12. With specific reference to the land use conflict at Balmoral, the Commission concludes:

12. (a) The major problem results from the proximity of intensive livestock operations adjacent to rural nonfarm residences in the east end of the community. Some complaints were also received from residents at a greater distance from the livestock operations, in the west end of the community.

(b) Both livestock operations are and have been operating in accordance with existing provincial regulations; however, complaints arose in recent years when there was increasing development of the livestock operations.

(c) The principal complaint centered on odours from the operations. There were also complaints about the transportation of manure down the main street, although this practice has been discontinued. Flies, rodents, dust, and improper disposal of dead animals were also cited. Groundwater pollution was feared by many residents.

(d) The adoption of the regional development zoning plan should prevent the recurrence of land use conflicts of this kind, but its only impact on the two existing livestock operations might be to restrict the growth or modification of the existing facilities.

(e) So far as the Commission can determine, there is no remedy in existing laws or regulations, with the exception of an abatement project, that would force the two producers on the one hand or the objecting citizens on the other hand to relocate.

(f) There is no hazard to public health arising from the livestock operations in Balmoral.

12. (g) There is no contamination of groundwater from the livestock operations in Balmoral.

(h) The livestock operations in Balmoral are well run enterprises employing good management and housekeeping standards.

(i) The Rural Municipality of Rockwood, during the period when it exercised sole jurisdiction over the Balmoral land use problems, did not take effective legal action to curtail the expansion or continued operation of existing livestock operations or to introduce controls on residential building in Balmoral.

RECOMMENDATIONS

PART I - BALMORAL

It is recommended that:

1. The Rural Municipality of Rockwood consider entering into an abatement project either for the purpose of compensating the two agricultural producers to relocate their facilities or with a view to compensating residential owners to relocate.

2. If an abatement project is not undertaken, the following recommendations should be implemented:

   (a) the Rural Municipality of Rockwood and the South Interlake Planning District Board approve development permits for the upgrading of facilities at the feedlot operation including the installation of pavement and gutters in the feeding enclosures and the installation of holding tanks for liquid effluent, in the interests of improved sanitation and the reduction of odours;

   (b) the operators should undertake such other improvements and alterations of the operations as are practicable to improve their environmental performance and should concurrently be provided with some legal assurance of continued tenure for a reasonable period of time.

PART II - GENERAL

3. The Department of Municipal Affairs, in co-operation with municipal governments, should proceed expeditiously to establish planning districts to implement development plans in order to prevent further land use conflicts.

4. Until such planning districts are established, municipal governments should have bylaws which will prevent the development of such land use conflicts.

5. The Department of Environment and the Department of Agriculture study a permit system for livestock producers, to include a municipal level component of application approval and inspection.

6. The existing regulations respecting livestock production operations, under The Clean Environment Act, be re-examined with a view to the inclusion of the ability to place limits on the numbers of livestock in relation to:

(a) the proximity of livestock operations to existing residential or recreational development;

(b) groundwater sensitive areas;

(c) land available to the operator for waste disposal.

In this regard, the recommendations of The Clean Environment Commission's 1979 "Report on an Investigation of Intensive Livestock Production Operations in Manitoba" should be reviewed.

7. The Government of Manitoba in conjunction with livestock producers' organizations develop a Code of Practice to serve as guidelines for livestock production operators.

APPENDIX A

MANITOBA
MINISTER RESPONSIBLE FOR
ENVIRONMENTAL MANAGEMENT
WORKERS COMPENSATION
WORKPLACE SAFETY AND HEALTH
WINNIPEG
R3C 0V8

March 30, 1983

Mr. Stan Eagleton,
Chairman, Clean Environment Commission,
Box 4, Building 2,
139 Tuxedo Avenue,
Winnipeg, Manitoba.
R3N 0H6

Dear Mr. Eagleton:

Re: R.M. of Rockwood.

Due to the continuing concerns of the residents of Balmoral, Manitoba, respecting possible environmental land use conflicts between the Fox Bros. livestock operations and the residential area, I have been requested by the R.M. of Rockwood to initiate action to address, and hopefully resolve this problem.

Accordingly, I hereby request the Clean Environment Commission to investigate this matter and to hold public hearings pursuant to Section 13(1) of The Clean Environment Act and provide me with a report and recommendations before September 30, 1983.

In conjunction with the Commission's investigation, it should feel free to supplement its work by drawing upon the expertise in the Environmental Management Division of this Department and any related experience the Division can make available relating to environmental land use conflicts.

If you require further clarification or detail please let me know.

Fraternally,

Jay Cowan,
Minister.

cc: Hon. A. R. (Pete) Adam

Winnipeg Free Press, Wednesday, July 13, 1983

Clean Environment Commission

NOTICE OF PUBLIC HEARING

Tuesday, July 26, 1983, 10:00 a.m.
Balmoral Memorial Hall,
Balmoral, Manitoba

The Commission will hold a public hearing under Section 13(1) of The Clean Environment Act as requested by the Minister responsible after receipt of a request from the Rural Municipality of Rockwood, concerning reported environmental land use conflicts and land use planning deficiencies in connection with the location of residential areas in close proximity to livestock production operations at or near Balmoral, Manitoba, with particular reference to:

Stanley Fox Cow-Calf Cattle Production Operation **1984.0**
located in Section 7, Township 15, Range 2 EPM in the Rural Municipality of Rockwood, at or near Balmoral, Manitoba.

John W. Fox, "Makin Bacon" Pig Production Operation **1985.0**
located in the NW ¼ of Section 6, Township 15, Range 2 EPM in the Rural Municipality of Rockwood, at or near Balmoral, Manitoba.

Any Other Agricultural Production Operations that are considered likely to affect the quality of life in or near Balmoral, Manitoba.

Any person who is likely to be affected by the said operations, or who is able to provide the Commission with pertinent information regarding this matter may appear before the Commission at this hearing. Anyone who intends to make a representation at the hearing should advise the Commission, in advance, at Box 4, 139 Tuxedo Avenue, Winnipeg, Manitoba, R3N 0H6, Telephone 944-7120.

MANITOBA

MANITOBA REGULATION 34/73
As Amended by M.R. 6/76.

BEING A REGULATION UNDER

THE CLEAN ENVIRONMENT ACT
RESPECTING LIVESTOCK PRODUCTION OPERATIONS

(Filed February 13, 1973)

Definitions

1 In this regulation,

(a) "holding pond" means a reservoir, lagoon, cistern, gutter, tank, or area for containing contaminated run-off, effluent or solid waste;

(b) "livestock" means cattle, swine, horses, poultry, sheep, and rabbits not kept exclusively for pets;

(c) "livestock production operation" means an operation where livestock are confined, fed or raised, but does not include:

(i) an operation for the slaughter or processing of livestock;

(ii) an operation for the grading or packing of livestock or livestock products;

(iii) an operation for transporting livestock or livestock products;

(iv) a hatchery; or,

(v) a livestock auction market;

(d) "livestock waste unit" or "L.W.U." means an amount of waste or waste equivalent as set out in Part II of Schedule A;

(e) "prescribed manner for agricultural purposes" means the manner whereby livestock waste is applied onto or introduced into soil from which a crop is grown within sixteen months from the time of application or introduction and from which a crop is harvested within thirty months from the time of application or introduction;

(f) "recreation area" means an area so designated by federal, provincial or municipal authorities;

(g) "residential area" means a city, town, or incorporated village; or other area as designated by the Minister;

(h) "waste" or "livestock waste" for purposes of these regulations, means livestock manure.

General Requirements

2 Livestock production operations are exempt from the requirements of sub-sections (1) and (4) of Section 14 as provided in The Clean Environment Act.

3(1) All waste from livestock production operations shall be disposed of in accordance with the "prescribed manner for agricultural purposes".

3(2) Structures or storages for livestock waste, including manure piles and holding ponds shall be constructed and maintained so as to:

(a) retain the waste on land under the control of the operator, and,

(b) prevent the waste from entering any body of water.

3(3) The operator of a livestock production operation shall ensure that all dead livestock are, before the expiration of forty-eight hours after death:

(a) delivered for rendering in a rendering plant; or

(b) buried with a minimum of one metre (1.09 yards) of earthen cover; or

(c) disposed of in some other manner approved by the Minister.

En M.R. 6/76.

3(4) Any person transporting livestock waste on public roads or right-of-ways shall ensure that no spillage or leakage occurs from the vehicle used.

Registration

4 All operators of livestock production operations falling into those categories set out in Part I of Schedule A shall register the operation with the Minister using a registration form approved by the Minister.

5 All operators of new or proposed livestock production operations falling into those categories set out in Part I of Schedule A shall register the operation with the Minister using a registration form approved by the Minister.

6 All operators required to register under Sections 4 or 5 shall re-register prior to expanding their operations above that for which they have registered.

Coming Into Force

7 This regulation comes into force on the day it is filed with the Registrar of Regulations.

SCHEDULE A

PART I

(OPERATIONS AND CATEGORIES OF OPERATIONS REQUIRING REGISTRATION)

Any operation:

(a) producing waste in excess of 10 L.W.U. and located within a residential recreation area; or

(b) producing waste in excess of 50 L.W.U. and located or spreading manure within one-half mile of a residential or recreation area; or

(c) producing waste in excess of 100 L.W.U. and located or spreading manure within one mile of a residential or recreation area; or

(d) producing waste in excess of 200 L.W.U. and located or spreading manure within two miles of a residential or recreation area; or

(e) producing waste in excess of 250 L.W.U., regardless of location; or

(f) producing waste in excess of 100 L.W.U. and located on soils subject to investigation; or

(g) producing waste in excess of 100 L.W.U. and located within one-quarter mile of a residence, other than a residence associated with the operation.

L.W.U. means Livestock Waste Unit.

SCHEDULE A

PART II

Table of Livestock Waste Units – L.W.U.

Type of Operation	Livestock Waste Units
Dairy Cattle	
1 Milk Cow	1.0
1 Milk Cow plus Dry Cows	1.2
1 Milk Cow plus Dry Cows replacement heifers, calves	1.4
Beef Cattle	
1 Beef Animal of Feedlot Capacity	0.36
1 Beef Cow plus replacement heifers, calves (All year Drylot Capacity)	0.7
1 Beef Cow plus replacement heifers, calves (Winter lot Capacity)	0.42
1 Beef Cow plus bulls, replacement heifers, calves (Summer pasture only)	0.28
Swine	
1 Sow (Farrow-Finish) plus boars, replacement gilts, suckling pigs to market	2.0
1 Sow (Farrow-Weanling) plus boars, replacement gilts, suckling pigs to 40 pounds	0.8
1 Feeder Pig (40 pounds to market) Feeder Barn Capacity	0.2
Chickens	
100 Laying hens	0.9
100 Chicken Broilers	0.53
100 Hens in Breeder Flock	1.2
Turkeys	
100 Turkey Broilers	0.85
100 Turkey Feeders	1.5
100 Turkey Hens in Breeder Flock	2.2
Ducks	
100 Ducks	1.0
Geese	
100 Geese	1.1
Horses	
1 Horse	0.5
Sheep	
1 Ewe, plus rams, lambs	0.1
Rabbits	
10 Does, plus Bucks, litters	0.4

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APPENDIX D

RECOMMENDATIONS

Extracted from The Clean Enviroment Commission's
REPORT ON AN INVESTIGATION OF INTENSIVE
LIVESTOCK PRODUCTION OPERATIONS IN MANITOBA
February, 1979.

1. That a revised regulation be issued under The Clean Environment Act to control contamination of the air, soil and water in connection with the operation of intensive livestock production operations.

2. That, in order to avoid hardship and disruption, owners of existing intensive livestock production operations be given five years to comply with any new regulations issued pursuant to these recommendations and that they be required to file with the department within two years, a plan and schedule for compliance with the regulations at the end of the five year period.

3. That, on issuance of a revised regulation under The Clean Environment Act, regulations issued under The Public Health Act covering the same matters be rescinded.

4. That, for the purpose of the revised regulation, "intensive livestock production operation" means an operation for the rearing, confinement or feeding of poultry, hogs, sheep, cattle or horses in an enclosure where the space per animal unit is less than 400 square metres, but does not include:

(a) an operation for the slaughter or processing of livestock;

(b) an operation for the grading or packing of livestock or livestock products;

4. (c) an operation for transporting livestock or livestock products;

(d) a hatchery; or

(e) a livestock auction market.

5. That a person operating an intensive livestock production operation in excess of 300 animal units be required to register with the department under subsection (4) of Section 14 of The Clean Environment Act.

6. That a person proposing to establish a new or expand an existing intensive livestock production operation that will exceed 300 animal units be required to file his proposal under subsection (1) of Section 14 of The Clean Environment Act and that:

(a) the proposal be filed six months prior to the planned date of the commencement of operations;

(b) detailed plans of the operation accompany the proposal; and

(c) no construction shall take place until the proposal has been approved by the department.

7. That the new revised regulation under The Clean Environment Act require:

(a) that livestock feeding operations be constructed and maintained in such a manner as to retain livestock waste and runoff water from feeding and manure storage areas on land owned or controlled by the operator and that such waste and runoff water not enter any body of water;

7. (b) that confinement operations and manure handling and storage facilities not be established in the floodplains of rivers and streams; and

(c) that the existing operations so located either be moved to higher ground or be dyked in such a manner as to prevent inundation by flooding.

8. That areas sensitive to groundwater contamination by livestock wastes be mapped, based on the already very detailed and extensive knowledge of soil types, soil moisture conditions and groundwater aquifer locations in Manitoba, and that this information be used in determining the precautions needed to ensure the protection of the underground water supply.

9. That all intensive livestock operations be required, under the revised regulation, to ensure that feeding, holding and manure storage areas are rendered impermeable to prevent contamination of groundwater from seepage.

10. That the revised regulation require that animal wastes and contaminated runoff water from holding ponds be disposed of by distribution on and incorporated into lands to which the operator has legal access and on which a crop will be harvested within thirty months of the date of application.

11. That animal wastes be incorporated in the soil with the shortest practicable delay after application.

12. That producers be required to take appropriate measures at all times to ensure that pests are controlled.

13. That the revised regulation require that dead animals be retained in an inoffensive condition and disposal of by burial with a top cover of one metre of earth or by rendering in a rendering plant unless disposal by some other method is approved.

14. As major conflicts arising from livestock odours relate to conflicting land uses, the Commission recommends that:

(a) every effort be made to encourage municipalities to form planning districts to develop and obtain approval of land use plans designed to minimize land use conflicts by achieving suitable separation between residential and recreational development on the one hand and livestock production operations on the other; and

(b) as part of these plans, the designation "limited agriculture" be used for land in the vicinity of urban centres to limit the size and intensity of livestock operations in such areas; and

(c) every care should also be taken to ensure that residential development is not permitted to encroach on existing livestock production operations located on land designated for unrestricted agricultural use.

15. Due to the delays and natural inertia associated with the adoption of land use zoning plans and until such time as comprehensive land use plans are in being, it is recommended that:

(a) municipalities be encouraged to pass interim bylaws establishing suitable separation distances between residential, recreational and other public use facilities and livestock developments and also incorporating prohibitions on the keeping of livestock in sensitive areas; and

15. (b) the revised regulation issued under The Clean Environment Act prescribe a schedule of separation distances, such as those outlined in Attachment 1, to be applicable in all rural municipalities except those where separation distances are established by means of bylaws or land use zoning plans.

16. That the Department of Agriculture, the Department of Environment and Workplace Safety and Health, and other appropriate departments of government co-operate in the production of guidelines to assist livestock producers to locate, plan, construct and operate in a manner compatible with sound environment practice.

17. That the Department of Municipal Affairs in co-operation with the above Departments issue guidelines to assist municipal councils to avoid or overcome livestock related problems. Such guidelines should contain information on the adoption of land use plans. They should also include information on the use of bylaws to set limits on livestock operations where this is considered desirable in the circumstances prevailing locally.

Schedule of Separation Distances

From the Nearest Edge of:	To a site for an intensive livestock production operation including pens, barns, manure storage area, holding pond, manure pile, burial site for:				To a manure spreading area for:	
	50-100 Animal Units	100-300 Animal Units	300-1,000 Animal Units	Over 1,000 Animal Units	Manure Tilled Within 12 Hours	Manure Not Tilled Within 12 Hours
1. A residential or recreational area with a population of over 50 people. (More distance is suggested from urban centres likely to expand)	800 m	1.6 km	1.6 km	3.2 km	400 m	800 m
2. An occupied dwelling or rural business located on land not controlled by the I.L.P.O. operator and not located in an urban centre	400 m	400 m	800 m	800 m	200 m	400 m
3. Water well or spring used for human water supply and located on land not controlled by the I.L.P.O operator.	90 m	90 m	90 m	90 m	90 m	90 m
4. A watercourse or body of water not entirely contained on land controlled by the I.L.P.O.	The set-back distance from a watercourse or body of water must be such that the run-off of water from the operation is controlled.					

POOR

QUALITY

ORIGINAL